

produce a compensable level of radiation dose (a dose producing a probability of causation of 50% or greater), because using worst-case assumptions it can be determined that the employee could not have incurred a compensable level of radiation dose. For all claims in which worst-case assumptions are employed under condition 2, the reasoning that resulted in the determination to limit further research and analysis will be clearly described in the draft of the dose reconstruction results reported to the claimant under § 82.25 and in the dose reconstruction results reported to the claimant under § 82.26.

(l) After providing the claimant with a copy of a draft of the dose reconstruction report to be provided to DOL, NIOSH will conduct a closing interview with the claimant to review the dose reconstruction results and the basis upon which the results were calculated. This will be the final opportunity during the dose reconstruction process for the claimant to provide additional relevant information that may affect the dose reconstruction. The closing interview may require multiple sessions, if the claimant requires time to obtain and provide additional information, and to allow NIOSH time to integrate the new information into a new draft of the dose reconstruction report. NIOSH will determine whether to grant requests for time to provide additional information, based on whether the requests are reasonable and the claimant is actively seeking the information specified.

(m) Subject to any additional information provided by the claimant and revision of the draft dose reconstruction report under § 82.10(l), the claimant is required to return form OCAS-1 to NIOSH, certifying that the claimant has completed providing information and that the record for dose reconstruction should be closed. Upon receipt of the form, NIOSH will forward a final dose reconstruction report to DOL, DOE, and to the claimant.

(n) NIOSH will not forward the dose reconstruction report to DOL for adjudication without receipt of form OCAS-1 signed by the claimant or a representative of the claimant authorized pursuant to 20 CFR 30.600. If the claimant or the authorized representative of

the claimant fails to sign and return form OCAS-1 within 60 days, or 60 days following the claimant's final provision of additional information and receipt of a revised draft dose reconstruction report under § 82.10 (l), whichever occurs last, after notifying the claimant or the authorized representative, NIOSH may administratively close the dose reconstruction and notify DOL of this action. Upon receiving this notification by NIOSH, DOL may administratively close the claim.

(o) Once actions under § 82.10 (m) are completed, the record for dose reconstruction shall be closed unless reopened at the request of DOL under 20 CFR part 30.

§ 82.11 For which claims under EEOICPA will NIOSH conduct a dose reconstruction?

NIOSH will conduct a dose reconstruction for each claim determined by DOL to be a claim for a covered employee with cancer under DOL regulations at 20 CFR 30.210(b), subject to the limitation and exception noted in § 82.12. Claims for covered employees who are members of the Special Exposure Cohort seeking compensation for a specified cancer, as determined by DOL under 20 CFR 30.210(a), do not require and will not receive a dose reconstruction under this rule.

§ 82.12 Will it be possible to conduct dose reconstructions for all claims?

It is uncertain whether adequate information of the types outlined under § 82.14 will be available to complete a dose reconstruction for every claim eligible under § 82.11.

(a) NIOSH will notify in writing any claimants for whom a dose reconstruction cannot be completed once that determination is made, as well as in the closing interview provided for under § 82.10(l).

(b) Notification will describe the basis for finding a dose reconstruction cannot be completed, including the following:

(1) A summary of the information obtained from DOE and other sources; and, (2) a summary of necessary information found to be unavailable from DOE and other sources.

(c) NIOSH will notify DOL and DOE when it is unable to complete a dose reconstruction for the claimant. This will result in DOL producing a recommended decision to deny the claim, since DOL cannot determine probability of causation without a dose estimate produced by NIOSH under this rule.

(d) A claimant for whom a dose reconstruction cannot be completed, as indicated under this section, may have recourse to seek compensation under provisions of the Special Exposure Cohort (see 20 CFR part 30). Pursuant to section 7384q of EEOICPA, the Secretary of HHS is authorized to add classes of employees to the Special Exposure Cohort. NIOSH will provide the claimant with any information and forms that HHS provides to classes of employees seeking to petition to be added to the Special Exposure Cohort.

§ 82.13 What sources of information may be used for dose reconstructions?

NIOSH will use the following sources of information for dose reconstructions, as necessary:

- (a) DOE and its contractors, including Atomic Weapons Employers and the former worker medical screening program;
- (b) NIOSH and other records from health research on DOE worker populations;
- (c) Interviews and records provided by claimants;
- (d) Co-workers of covered employees, or others with information relevant to the covered employee's exposure, that the claimant identified during the initial interview with NIOSH;
- (e) Labor union records from unions representing employees at covered facilities of DOE or AWEs; and,
- (f) Any other relevant information.

§ 82.14 What types of information could be used in dose reconstructions?

NIOSH will obtain the types of information described in this section for dose reconstructions, as necessary and available:

- (a) *Subject and employment information*, including:
 - (1) Gender;
 - (2) Date of birth; and,

- (3) DOE and/or AWE employment history, including: job title held by year, and work location(s): including site names(s), building numbers(s), technical area(s), and duration of relevant employment or tasks.

- (b) *Worker monitoring data*, including:

- (1) External dosimetry data, including external dosimeter readings (film badge, TLD, neutron dosimeters); and,
- (2) Pocket ionization chamber data.

- (c) *Internal dosimetry data*, including:

- (1) Urinalysis results;
- (2) Fecal sample results;
- (3) In Vivo measurement results;
- (4) Incident investigation reports;
- (5) Breath radon and/or thoron results;

- (6) Nasal smear results;
- (7) External contamination measurements; and
- (8) Other measurement results applicable to internal dosimetry.

- (d) *Monitoring program data*, including:

- (1) Analytical methods used for bioassay analyses;

- (2) Performance characteristics of dosimeters for different radiation types;

- (3) Historical detection limits for bioassay samples and dosimeter badges;

- (4) Bioassay sample and dosimeter collection/exchange frequencies;

- (5) Documentation of record keeping practices used to record data and/or administratively assign dose; and,

- (6) Other information to characterize the monitoring program procedures and evaluate monitoring results.

- (e) *Workplace monitoring data*, including:

- (1) Surface contamination surveys;

- (2) General area air sampling results;

- (3) Breathing zone air sampling results;

- (4) Radon and/or thoron monitoring results;

- (5) Area radiation survey measurements (beta, gamma and neutron); and,

- (6) Fixed location dosimeter results (beta, gamma and neutron); and,

- (7) Other workplace monitoring results.

- (f) *Workplace characterization data*, including:

- (1) Information on the external exposure environment, including: radiation type (gamma, x-ray, proton, neutron,